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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,306	07/14/2003	David G. Edwards	12016.01	4384

7590 12/17/2003

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EXAMINER

O MALLEY, KATHRYN S

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/618,306	EDWARDS, DAVID G.	
	Examiner	Art Unit	
	Kathryn S. O'Malley	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Jr. and Harding.

3. Adams, Jr. teaches an in-wall dryer vent 10 comprising rectangular portion 12 with arcuate rear wall 18, opening 16 that can be of any shape with flange 28 adapted for attachment to a clothes dryer outlet, and bottom end 24 for depositing exhaust air to the opposite side of a floor partition. Note column 3, lines 4-35 and Figures 1 and 2.

Adams does not teach a separate upper portion and lower portion, the outlet having a greater perimeter than the inlet, an outlet tube extending from the outlet 24, or the sizes and materials presently claimed. Regarding the lack of a separate top and bottom portion, such a modification would have been obvious to one of ordinary skill in the art since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding an increasing perimeter and outlet tube, Harding teaches a similar dryer vent system comprising upper part 2101 and lower hose 2102 having a greater perimeter than the inlet. Note column 8, lines 58-62 and Figure 23. As Harding teaches that such an increase in perimeter occurs with standard industry sizes and will result in less

trapping of lint, such a modification would have been obvious to one of ordinary skill in the art. Regarding claims 4 and 7-9, such limitations would have been obvious matters of design choice since the modifications would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Regarding claims 5 and 6, such limitations would have been obvious to one of ordinary skill in the art since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

4. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Jr. and Harding as applied to claim 1 above, and further in view of Fournier et al.

5. Adams, Jr., as modified by Harding, does not teach an L-shaped mounting flange. However, as L-shaped flanges are well established in the art of mounting (note Fournier et al.) and in the absence of unexpected results, such a claim limitation would have been an obvious matter of design choice to one of ordinary skill in the art and fails to constitute a patentable distinction over the prior art of record.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Jr. and Harding as applied to claim 1 above, and further in view of Johnson.

7. Adams, Jr., as modified by Harding, does not teach a bottom wall normal to the outlet tube. However, as normal bottom wall are widely present at the end of outlet tubes currently in the art (note Johnson tube 12 and walls 15) and in the absence of

unexpected results, such a claim limitation would have been an obvious matter of design choice to one of ordinary skill in the art and fails to constitute a patentable distinction over the prior art of record.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams, Jr., as modified by Harding as applied to claim 1 above, and further in view of Gomulinski.

9. Adams, Jr., as modified by Harding, does not teach a bottom wall sloping inwardly toward the outlet tube. However, as sloping bottom wall are widely present at the end of outlet tubes currently in the art (note Gomulinski Figure 3) and in the absence of unexpected results, such a claim limitation would have been an obvious matter of design choice to one of ordinary skill in the art and fails to constitute a patentable distinction over the prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (703)308-2844. The examiner can normally be reached on M-F (8:30-5:00).

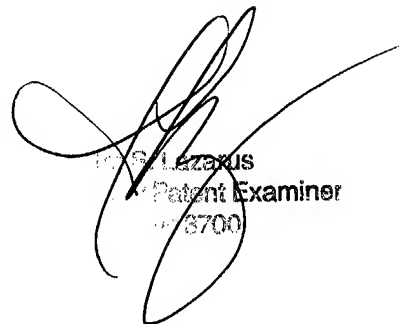
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9302.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

KSO



J. L. Lezakus  
Patent Examiner  
3700